

REMARKS

The December 1, 2008 Office Action indicates that newly submitted claims 18-31 are directed to an invention that is independent or distinct from the invention originally claimed.

The Office Action describes, *inter alia*, that:

For example, the current claim is directed to driving ‘while the print head and the print medium are relatively moved’ where “the print elements belonging to the same drive block have the same drive timing and the print elements belonging to a different drive block have different drive timings” whereas the previously presented claim was directed to “dividing first print elements into a plurality of drive blocks and activating [these] drive blocks ... on a time-division basis” and where “the second print elements have the same time-division drive timing.” Further, the instant claim is directed to “print elements adjoining each other are allocated to different drive blocks” with part of the print elements in adjoining chips overlapped in a scan direction and “the number of the overlapping print elements is equal in number to an integer times the number of the print elements” whereas the previously presented claim was directed to second print elements in adjoining chips being aligned in a scan direction with *printing positions* which overlap in the scan direction and “number of second print elements is equal in number to an integer times the number of drive blocks.”¹

Applicants note that portions of MPEP 803 describe that:

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The invention must be independent (see MPEP §802.01, § *>806.06<, § 808.01) or distinct as claimed (see MPEP §806.05 - § *>806.05(j)<); and

(B) There *>would< be a serious burden on the Examiner if restriction is >not< required (see MPEP §803.02, **>§808<, and §808.02).

...

If there is an express admission that the claimed inventions *>would have been< obvious over each other within the meaning of 35 U.S.C. 103, restriction should not be required. *In re Lee*, 199 USPQ 108 (Comm'r Pat. 1978)

For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown **by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP §808.02.

First of all, as Applicants explained in a response submitted on August 20, 2008,

Applicants believe that the two inventions (e.g., as in previous canceled claim 1 and current claim 18) are not patentably distinct. Applicants incorporate by reference herein the arguments

¹ Page 2 of the Office Action.

In reply to Office Action dated December 1, 2008

on the August 20, 2008 response. In particular, Applicants believe that while added claims 18-31 further clarify the present invention, they are directed to the similar species (e.g., a printing method for printing an image by using a print head) and recite similar features to canceled claims, i.e., the added claims are NOT directed to patentably distinct species with mutually exclusive subject matter from the canceled claims.

For example, reciting “driving, while the print head and the print medium are relatively moved, the plurality of print elements in the print head on a time-division basis so that the print elements belonging to the same drive block have the same drive timing and the print elements belonging to a different drive block have different drive timings to print the image on the print medium” of claim 18 is believed NOT patentably distinct as compared to reciting “dividing the first print elements into a plurality of drive blocks and activating the drive blocks of the first print elements on a time-division basis to form an image on the print medium, wherein drive timings with which to activate the second print elements have the same time-division drive timing, and the second print elements overlapping with each other in the scan direction are selectively activated so as to be alternatively actuated depending on a column position in the scan direction” of claim 1 which is now canceled. In other words, Applicants believe that describing a similar method or structure in slightly different ways should not be regarded as patentably distinct inventions.

Secondly, Applicants believe that there should not be a serious burden on the Examiner because the two inventions are NOT believed to be patentably distinct as explained above. Moreover, there is no *prima facie* showing of appropriate explanation of, e.g., separate classifications by the Examiner.

Applicants note that each of added independent claims 22 and 26 is an apparatus claim and a program claim, respectively, that mirrors claim 18. Applicants also note that added independent claims 26, 28 and 30 recite similar features to claim 18 described above.

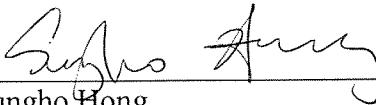
In view of the above, Applicants respectfully request that the Election/Restrictions indicated in the December 1, 2008 Office Action be withdrawn. Accordingly, Applicants submit herewith claims 18-31 as new pending claims.

AUTHORIZATION

No petitions or additional fees are believed due for this amendment and/or any accompanying submissions. However, to the extent that any additional fees and/or petition is required, including a petition for extension of time, Applicants hereby petition the Commissioner to grant such petition, and hereby authorizes the Commissioner to charge any additional fees, including any fees which may be required for such petition, or credit any overpayment to Deposit Account No. 13-4500 (Order No. 1232-5326). A DUPLICATE COPY OF THIS SHEET IS ENCLOSED.

Respectfully submitted,
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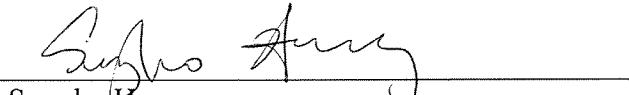
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